

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **201509054**

Release Date: 2/27/2015

Date: **December 8, 2014**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

B= scholarship program

X= award name

Y= company

Z= country

n = age range

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures will not be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

**Description of your request**

Your letter indicates you will operate an employer-related scholarship program called X. You are planning to help some of the well deserving kids of Y employees pursue their interests or academic goals.

You will be awarding scholarships to support kids' fees for college, sports, art, dance, music or academic enrichment. You want to give children of Y employees the chance to experience new and interesting activities as well as support their academic goals.

Applicants must be age n, enrolled full-time in school, and currently living in the Z. The parent or legal guardian must be employed by a participating Y store. The employee can be part-time or full-time and must be active on payroll for at least six months prior to the submission date of the application. Minor entrants must also have written consent of a parent or legal guardian. Full-time students who are Y employees are also eligible.

Family members of officers, directors, major contributors of the Foundation, and selection committee members are ineligible for scholarships.

You will put together a selection committee independent of you and Y who will judge the entries based on each student's essay, academic record, recommendation, and participation in school and community activities. You may conduct an interview for a larger scholarship amount.

Applicants who provide the following information will warrant consideration:

- Most current report card or school transcript
- Address and contact information for the program your child wishes to participate
- A copy of your current Y pay stub
- A recommendation from an adult (preferably a teacher/coach/pastor/advisor) not related to the student
- An essay on, "How would the B make a difference in my life?"

You will notify applicants of their awards and the procedure to follow to receive scholarship monies. You will make the awards on an individual basis. You will mail awards directly to the program or institution the applicant is attending. You will award scholarships solely in the order recommended by the selection committee, and the scholarship award amount will be fixed. No one on the selection committee will have the power to increase the number of scholarships after the committee has made its selection. You will not terminate a scholarship because the recipient or the recipient's parents terminate employment subsequent to the awarding of the scholarship.

You will investigate any misuse of funds and will withhold further payments if it is found the funds awarded are not being used for the purposes for which the grant was made. You will also take all reasonable steps to recover any funds and ensure restoration of such funds. You will maintain records related to the grants to individuals.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that

meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b) (1) (A) (ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year will not exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.

- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures do not differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c) (2) (B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations